

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

RUBEN PROVENCIO-BARRAZA,)
)
)
Plaintiff,)
)
v.) Case No. CIV-06-1225-T
)
)
UNITED STATES MARSHALS SERVICE,)
et al.,)
)
Defendants.)

O R D E R

Before the Court is the Report and Recommendation issued by United States Magistrate Judge Gary M. Purcell pursuant to 28 U.S.C. § 636(b)(1)(B)-(C) on December 20, 2006. Judge Purcell recommends dismissal of the case with prejudice pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1) for failure to state a claim upon which relief may be granted. Judge Purcell finds Plaintiff's civil rights action pursuant to *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971), to be time-barred and brought against persons who are not proper defendants.

Plaintiff responded to the Report with a letter addressed to Judge Purcell dated December 30, 2006, stating that he wanted to object but he was scheduled for release from custody on January 4, 2007, and lacked time or funds to prepare an objection so he "wish[ed] this [letter] to serve as my objection." *See Letter filed 1/8/07 [Doc. 12]*. In the letter, Plaintiff also promised to provide notice of his change of address and to make an "amended objection" when his new address was known.

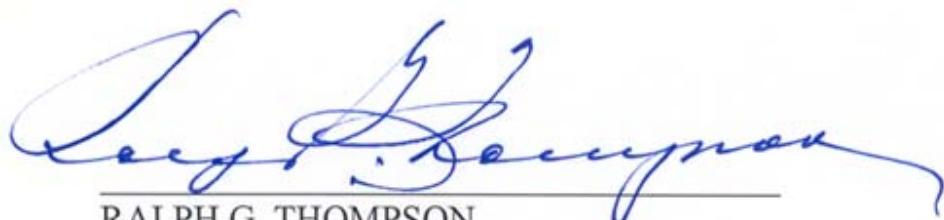
Id. However, no such notice or objection has been received.

The court of appeals has adopted a "firm waiver" rule that requires a timely and specific objection to preserve an issue for de novo review by the district court. *United States v. 2121 East 30th Street*, 73 F.3d 1057, 1060 (10th Cir. 1996). "[A]n objection stating only "I object" preserves

no issue for review.”” *Id.* (quoting *Lockert v. Faulkner*, 843 F.2d 1015, 1019 (7th Cir.1988)). Due to the lack of a proper objection, the Court finds Plaintiff has waived further review of the issues addressed in the Report.¹ For this reason, and because a de novo review of the case file and the issues reveals Judge Purcell’s analysis to be entirely correct, the Court concurs in Judge Purcell’s recommendation of dismissal with prejudice. The Court finds this action is time barred and brought against persons who are not subject to suit under *Bivens*.

Therefore, the Court adopts the Report and Recommendation [Doc. 11] in its entirety. The case is DISMISSED with prejudice for failure to state a claim on which relief may be granted.

IT IS SO ORDERED this 31st day of January, 2007.



RALPH G. THOMPSON
UNITED STATES DISTRICT JUDGE

¹ Due to Plaintiff’s failure to provide timely notice of his change of address, as required by Local Court Rule LCvR5.5(a), the Court declines to grant *sua sponte* an extension of time to object.